

ORDER NO. 3915

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Chairman;
Mark Acton, Vice Chairman;
Tony Hammond; and
Nanci E. Langley

Competitive Product Prices
Priority Mail Express & Priority Mail Contract 29
(MC2016-120)
Negotiated Service Agreement

Docket No. CP2016-150

ORDER APPROVING AMENDMENT TO
PRIORITY MAIL EXPRESS & PRIORITY MAIL NEGOTIATED SERVICE AGREEMENT

(Issued May 23, 2017)

I. INTRODUCTION

The Postal Service seeks to amend a Priority Mail Express & Priority Mail negotiated service agreement.¹ For the reasons discussed below, the Commission approves the Amendment.

¹ Notice of United States Postal Service of Amendment to Priority Mail Express & Priority Mail Contract 29, with Portions Filed Under Seal, May 12, 2017 (Notice). The amendment is an attachment to the Notice (Amendment).

In Order No. 3252, the Commission approved the Priority Mail Express & Priority Mail Contract 29 negotiated service agreement (Existing Agreement).² On May 12, 2017, the Postal Service filed notice that it has agreed to the Amendment to the Existing Agreement. See Notice. On May 15, 2017, the Commission issued a notice reopening this docket to consider the Amendment, appointing a Public Representative, and providing interested persons with an opportunity to comment.³

The Postal Service intends for the Amendment to become effective two business days after the date that the Commission completes its review of the Notice. Notice at 1. The Postal Service filed supporting financial documentation and a certified statement, as required by 39 C.F.R. § 3015.5. *Id.*

II. COMMENTS

Comments were filed by the Public Representative.⁴ No other person submitted comments. The Public Representative reviewed the Amendment and the financial model filed under seal. PR Comments at 2. Based on that review, he concludes that the Existing Agreement, as amended, should continue to generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633(a). *Id.*

III. COMMISSION ANALYSIS

The Commission has reviewed the Notice, the accompanying materials filed under seal, and the comments filed by the Public Representative.

² See Docket Nos. MC2016-120 and CP2016-150, Order Adding Priority Mail Express & Priority Mail Contract 29 to the Competitive Product List, April 19, 2016 (Order No. 3252). The contract was later amended. See Order No. 3616, Order Approving Amendment to Priority Mail Express & Priority Mail Negotiated Service Agreement, November 15, 2016; Order No. 3649, Order Approving Amendment to Priority Mail Express & Priority Mail Negotiated Service Agreement, December 8, 2016.

³ See Docket No. CP2016-150, *et al.*, Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, May 15, 2017.

⁴ Public Representative Comments on Postal Service Notice of Amendment to Priority Mail Express & Priority Mail Contract 29, May 19, 2017 (PR Comments).

Cost considerations. The Commission reviews competitive product prices to ensure that each product covers its attributable costs, does not cause market dominant products to subsidize competitive products, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by the product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, if a product covers its attributable costs, it is likely to comply with 39 U.S.C. § 3633(a).

The Amendment replaces Table 2 and the terms in sections I.G, I.H, and I.J of the Existing Agreement. Notice, Amendment at 1. The Amendment extends the contract's implementation period until the end of the first full contract quarter after the effective date of the Amendment, replaces the pricing tables, and changes the price adjustment methodology. *Id.* at 1-5.

Based on a review of the record, the Commission finds that the Existing Agreement, as amended, should cover its attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, it finds that the Existing Agreement, as amended, should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the amended agreement is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See *also* 39 C.F.R. § 3015.7(c). Accordingly, a preliminary review of the Amendment indicates it is consistent with section 3633(a). The annual rate adjustment provision in section I.J of the amended agreement should allow the amended agreement's revenues to cover costs for the duration of its term. See Notice, Amendment at 5. The Commission will continue to review the cost coverage of the amended agreement in its Annual Compliance Determination to ensure that rates cover costs.

Other considerations. The Postal Service states that the Amendment shall become effective two business days after the date that the Commission completes its review. Notice at 1.

If the Existing Agreement, as amended, is terminated prior to the scheduled expiration date, the Postal Service shall promptly notify the Commission.

In conclusion, the Commission approves the Existing Agreement, as amended.

IV. ORDERING PARAGRAPHS

It is ordered:

1. The Commission approves the Priority Mail Express & Priority Mail Contract 29 negotiated service agreement, as amended.
2. The Postal Service shall notify the Commission if the Existing Agreement, as amended, terminates prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary